

## **IC 33-44-3**

### **Chapter 3. Definitions**

#### **IC 33-44-3-1**

##### **Definitions; application**

Sec. 1. The definitions in this chapter apply throughout this article.

*As added by P.L.98-2004, SEC.23.*

#### **IC 33-44-3-2**

##### **"Attorney"**

Sec. 2. "Attorney" means an individual in good standing admitted to the practice of law in Indiana. The term includes a professional corporation (as defined in IC 23-1.5-1-10) formed by one (1) or more attorneys.

*As added by P.L.98-2004, SEC.23.*

#### **IC 33-44-3-3**

##### **"Board"**

Sec. 3. "Board" refers to the Indiana attorney trust account board established by IC 33-44-4-1.

*As added by P.L.98-2004, SEC.23.*

#### **IC 33-44-3-4**

##### **"Depository financial institution"**

Sec. 4. "Depository financial institution" means a bank, a bank or trust company, a credit union, an industrial loan and investment company, a savings bank, or a savings association, whether chartered, incorporated, licensed, or organized under Indiana law or the law of the United States that:

- (1) does business in Indiana; and
- (2) is insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund, the National Credit Union Administration, or an alternate share insurer.

*As added by P.L.98-2004, SEC.23.*

#### **IC 33-44-3-5**

##### **"Eligible client"**

Sec. 5. "Eligible client" means a person:

- (1) who resides in Indiana; and
- (2) whose income:
  - (A) satisfies the eligibility standards established by a legal aid program or legal services program existing in Indiana on January 1, 1990, if the program's client eligibility standards provide that the client's income may not exceed one hundred fifty percent (150%) of the current poverty threshold established by the United States Office of Management and Budget;
  - (B) is not more than one hundred fifty percent (150%) of the current poverty threshold established by the United States

Office of Management and Budget; or  
(C) satisfies the eligibility standard for Supplemental Security Income or free services under the Older Americans Act of 1965, as amended (42 U.S.C. 3001-3057) or Developmentally Disabled Assistance and Bill of Rights Act (42 U.S.C. 6000-6083).

*As added by P.L.98-2004, SEC.23.*

### **IC 33-44-3-6**

#### **"Fee generating case"**

Sec. 6. "Fee generating case" means a case or matter that, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably would be expected to result in payment of a fee for legal services from an award to a client from public funds or from the opposing party. A case is not considered a fee generating case if adequate representation is unavailable and if any of the following circumstances exist concerning the case:

(1) The qualified legal services provider that represents the indigent in the case has determined in good faith that free referral is not possible for any of the following reasons:

(A) The case has been rejected by the lawyer referral service serving the county of the eligible client's residence, or if there is no such service, by two (2) attorneys in private practice who have experience in the subject matter of the case.

(B) Neither the lawyer referral service described in clause (A), if one exists, nor any attorney will consider the case without payment of a consultation fee.

(C) The case is of a type that attorneys in private practice ordinarily do not accept or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the eligible client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) A court has appointed a qualified legal services provider or its employee to represent the indigent in the case under a statute, a court rule, or practice of equal applicability to all attorneys in the jurisdiction.

(4) The case involves the rights of a claimant under a publicly supported benefit program for which entitlement is based on need.

*As added by P.L.98-2004, SEC.23.*

### **IC 33-44-3-7**

#### **"Fund"**

Sec. 7. "Fund" refers to the Indiana attorney trust account fund established by IC 33-44-7-1.

*As added by P.L.98-2004, SEC.23.*

### **IC 33-44-3-8**

#### **"Interest bearing attorney trust account"**

Sec. 8. "Interest bearing attorney trust account" means an account with a depository financial institution that is:

- (1) unsegregated;
- (2) interest bearing;
- (3) for the deposit of qualified funds by an attorney; and
- (4) capable of being drawn upon by the depositor in the same manner as a checking account that is not interest bearing.

*As added by P.L.98-2004, SEC.23.*

### **IC 33-44-3-9**

#### **"Legal assistance"**

Sec. 9. (a) "Legal assistance" means direct representation by an attorney of an eligible client in a civil matter pending in Indiana, including counsel, litigation, research, coordination with pro bono programs, support services, substantive and procedural training for attorneys and paralegals in poverty law subjects, and any other activity necessary to ensure the effective delivery of quality legal services in a civil matter.

(b) The term does not include representation of an eligible client in:

- (1) criminal matters; or
- (2) a fee generating case.

*As added by P.L.98-2004, SEC.23.*

### **IC 33-44-3-10**

#### **"Qualified funds"**

Sec. 10. "Qualified funds" means money received by an attorney from a client or beneficial owner in a fiduciary capacity that, in the good faith judgment of the attorney, is:

- (1) of such an amount; or
- (2) reasonably expected to be held for such a short term;

that sufficient interest income will not be generated to justify the expense of administering a segregated account.

*As added by P.L.98-2004, SEC.23.*

### **IC 33-44-3-11**

#### **"Qualified legal services provider"**

Sec. 11. "Qualified legal services provider" means a nonprofit organization organized in Indiana and operating exclusively in Indiana that, as its primary purpose and function, provides legal assistance without charge to eligible clients in civil matters only.

*As added by P.L.98-2004, SEC.23.*

